



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/686,546

10/14/2003

Monte G. Rydallch

020366-092800US

3481

20350

7590

10/19/2006

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER

DONDERO, WILLIAM E

ART UNIT

PAPER NUMBER

3654

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/686,546	Applicant(s) RYDALCH, MONTE G.	
	Examiner William E. Dondero	Art Unit 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-11, 13-16 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21 is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-11 and 13-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 22, 2006 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Thornbury (US-5277350). Regarding Claim 1, Thornbury discloses a tool comprising a proximal portion having a shaft 36 and a first flange 14, wherein the shaft is fixedly coupled with the first flange and is adapted for engagement with a powered mechanical rotation device 60 (through adapter 63 including bushing 62, shafts 48, 66, and spring pin 50); a distal portion having a second flange 16; and a column 12 coupled with one 16 of the proximal and distal portions, the column mechanically and detachably engaged, by friction between disk 34 and the interior surface of column 12 (see Column 3, Lines 7-14) with the other 14 of the proximal and distal portions, the column including

a cavity 22 adapted to grip the filament and disposed such that the cavity is between the first and second flanges when the column is engaged with the other of the proximal and distal portions (Figures 2 and 3). The recitation of "a tool for opening a cable having a length of filament disposed within a sheath" is not given weight as it is merely intended use and does not add structure to the tool. Regarding Claim 2, Thornbury discloses the column fixedly coupled with the proximal portion 16 (Figures 2 and 3). Regarding Claim 3, Thornbury discloses the column 12 comprises a hollow interior and the cavity 22 comprises a hole extending through the surface of the column to the hollow interior (Figures 2 and 3; and column 1, line 67). Regarding Claim 4, Thornbury discloses the cavity comprising a plurality of cavities 22 and 24, each being adapted to grip the filament. Regarding Claim 5, Thornbury discloses the powered mechanical rotation device 60 is a hand-held drill (Figures 2 and 3; and column 3, lines 46-49).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thornbury (US-5277350) in view of Bulman (US-5868348). Thornbury discloses a tool as discussed above in regards to Claim 1. Thornbury is silent about the first flange comprising a threaded hole and the column being threaded on the proximal end. However, Bulman teaches a first flange 14 comprising a threaded hole 30 and the

column 12 being threaded at the proximal end 18 (Figure 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to thread a hole and the column end of Thornbury's tool as taught by Bulman to allow for easy disassembly of the tool for removing the filament.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thornbury (US-5277350) in view of Bulman (US-5868348). Thornbury discloses a tool as discussed above in regards to Claim 1. Thornbury is silent about the second flange comprising a threaded hole and the column being threaded on the proximal end. However, Bulman discloses a second flange 14 comprising a threaded hole 30 and the column 12 being threaded at the distal end 18 (Figure 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to thread a hole and the column end of Thornbury's tool as taught by Bulman to allow for easy disassembly of the tool for removing the filament.

Claim 9-11, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tiano (US-20010029814) in view of Thornbury (US-5277350). Regarding Claims 9 and 14, Tiano discloses a method for opening a cable having a length of filament within a sheath, comprising attaching an end of the filament 32 to a tool having a column 12 fixedly coupled with a distal flange 14; and thereafter, rotating a shaft 22 fixedly coupled with a proximal flange 16 to pull the filament from the sheath and to spool the filament about the column (Figures 2, 3, and Claim 9). Tiano is silent about a cavity adapted to grip the filament and separating one of the flanges from the column to release the spooled filament. However, Thornbury discloses a portable winding device with a cavity

22 and a column mechanically and detachably engaged with a proximal flange 14, by friction between disk 34 and the interior surface of column 12 (see Column 3, Lines 7-14) (Figure 2, Column 3, Lines 7-14). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Thornbury's cavity and detachable proximal flange to grip the filament and remove the spooled filament from the tool, respectively, because these steps would result from the use of device of Tiano in view of Thornbury in its normal and expected fashion to allow the spool to be emptied and continue spooling the rest of the filament from the sheath. Regarding Claim 10, Tiano discloses rotating the shaft comprises rotating the shaft with a powered mechanical rotation device T engaged with the tool (Figures 2 and 3). Regarding Claim 11, Tiano discloses the powered mechanical rotation device T is a hand-help drill (Figures 2, 3).

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tiano (US-20010029814) in view of Thornbury (US-5277350) as applied to claims 9-11 and 14 above, and further in view of Bulman (US-5868348). Tiano in view of Thornbury disclose a method for opening a cable as discussed above in regards to Claims 9 and 12. Tiano in view of Thornbury is silent about separating the first of the flanges from the column. However, Bulman discloses a detachable first flange 14 (Figure 2). It would have been obvious to one of ordinary skill in the art to use Bulman's detachable first flange in the method of Tiano in view of Thornbury to separate the flange from the column and remove the spooled fiber because this step would result from the use of

device of Tiano in view of Thornbury in further view of Bulman in its normal and expected fashion.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tiano (US-20010029814) in view of Thornbury (US-5277350) as applied to claims 9-11 and 14 above, and further in view of Bulman (US-5868348). Tiano in view of Thornbury discloses a method for opening a cable as discussed above in regards to Claim 9. Tiano in view of Thornbury is silent about one of the flanges comprising a threaded hole into which a threaded end of the column is screwed; and separating the one of the flanges from the column comprising unscrewing the column relative to the one of the flanges. However, Bulman discloses a flange 14 comprising a threaded hole 30 into which a threaded end 18 of the column 12 is screwed (Figure 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Bulman's threaded flange and column in the method of Tiano in view of Thornbury to separate the flange and column for removal of the filament by unscrewing the column relative to the one of the flanges because this step would result from the use of device of Tiano in view of Thornbury in further view of Bulman in its normal and expected fashion.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tiano (US-20010029814) in view of Thornbury (US-5277350) as applied to claim 9 above, and further in view of applicant's admitted prior art. Tiano in view of Thornbury discloses a method for opening a cable as discussed above in regards to Claim 9. Tiano in view of Thornbury is silent about the filament comprising a strength member of an optical-fiber

cable. However, the applicant's prior art discloses the use of strengthening members of fiber optic cables on page 2, paragraph 2, lines 16-18. It would have been obvious to use the method of Tiano in view of Thornbury to remove a strength member from an optical-fiber cable because this step would result from the use of device of Tiano in view of Thornbury in its normal and expected fashion.

Claims 1-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huffman (US-6648262) in view of Thornbury, Jr. (US-5277350). Regarding Claims 1, 3, and 4, Huffman discloses a portable winding tool for winding a filament 21 comprising a proximal portion having a shaft 15 and a first flange 12, wherein the shaft is fixedly coupled with the first flange and is adapted for engagement with a powered mechanical rotation device 25; a distal portion having a second flange 13; a column 11 coupled with one of the proximal and distal portions 12,15, the column mechanically and detachably engaged with the other of the proximal and distal portions 13; and a cavity 17 to grip the filament (Figures 1, 2, 3, and 5). The recitation of "a tool for opening a cable having a length of filament disposed within a sheath" is not given weight as it is merely intended use and does not add structure to the tool. Huffman is silent about the column comprising a hollow interior and including the cavity comprising a hole extending through a surface of the column to the hollow interior and disposed between the first and second flanges when the column is engaged with the other of the proximal and distal portions. However, Thornbury, Jr. discloses a portable winding tool for winding a filament with a column 12 comprising a hollow interior and including cavities 22 comprising holes extending through a surface of the column to the hollow interior

and disposed between a first 14 and second 16 flanges when the column is engaged with the other of the proximal and distal portions (Figures 2 and 3). It would have been obvious to one of ordinary skill in the art at the time of the invention to move the cavity from the flange to the column of the device of Huffman as taught by Thornbury, Jr. to prevent an uneven wind near the flange interface. Regarding Claim 2, Huffman discloses the column is fixedly coupled with one of the proximal and distal portions 12, 15 (Figures 2 and 5). Regarding Claim 5, Huffman discloses the powered mechanical rotation device is a hand-held drill (Figure 1 and Column 2, Lines 51-55). Regarding Claim 7, Huffman discloses the second flange comprises a threaded hole 14; and the column is threaded at a distal end 23 for threading into the threaded hole, whereby the column is detachably engaged with the distal portion and coupled with the proximal portion (Figures 2-3 and 5; and Column 3, Lines 2-6).

Claim 9-11 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tiano (US-20010029814) in view of Thornbury (US-5277350) and Huffman (US-6648262). Regarding Claims 9 and 14-15, Tiano discloses a method for opening a cable having a length of filament within a sheath, comprising attaching an end of the filament 32 to a tool having a column 12 fixedly coupled with a distal flange 14; and thereafter, rotating a shaft 22 fixedly coupled with a proximal flange 16 to pull the filament from the sheath and to spool the filament about the column (Figures 2, 3, and Claim 9). Tiano is silent about a cavity adapted to grip the filament and separating one of the flanges, the second one, from the column to release the spooled filament. However, Thornbury discloses a portable winding device with a column 12 having a

Art Unit: 3654

cavity 22 to grip the filament (Figure 2). Further, Huffman discloses a portable winding device with a column 11 mechanically and detachably engaged with a second flange 13 comprising a threaded hole 14 into which a thread end 23 of the column is screwed and separating the flange from the column comprises unscrewing the column relative to the one of the flanges (Figures 2-3 and 5; and Column 3, Lines 2-6). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add a cavity to column of the portable winding device of Tiano as taught by Thornbury, Jr. to grip the filament as taught by Thornbury, Jr. It would have been further obvious to one of ordinary skill in the art at the time of the invention to make the proximal flange of the portable winding device of Tiano mechanically and detachably engaged with the column of the portable winding device of Tiano as taught by Huffman to be able to remove the filament once the portable winding device becomes full as taught by Huffman. Regarding Claim 10, Tiano discloses rotating the shaft comprises rotating the shaft with a powered mechanical rotation device T engaged with the tool (Figures 2 and 3). Regarding Claim 11, Tiano discloses the powered mechanical rotation device T is a hand-help drill (Figures 2, 3).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huffman (US-6648262) in view of Thornbury, Jr. (US-5277350) as applied to claims 1-5 and 8 above, and further in view of Bulman (US-5868348). Thornbury in view of Huffman is silent about the first flange comprising a threaded hole and the column being threaded on the proximal end. However, Bulman teaches a first flange 14 comprising a threaded hole 30 and the column 12 being threaded at the proximal end

18 (Figure 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to thread a hole and the column end of the tool of Huffman in view of Thornbury as taught by Bulman to allow for easy disassembly of the tool for removing the filament.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tiano (US-20010029814) in view of Thornbury (US-5277350) and Huffman (US-6648262) as applied to claims 9-11 and 14-15 above, and further in view of Bulman (US-5868348). Tiano in view of Thornbury disclose a method for opening a cable as discussed above in regards to Claims 9 and 12. Tiano in view of Thornbury and Huffman is silent about separating the first of the flanges from the column. However, Bulman discloses a detachable first flange 14 (Figure 2). It would have been obvious to one of ordinary skill in the art to use Bulman's detachable first flange in the method of Tiano in view of Thornbury and Huffman to separate the flange from the column and remove the spooled fiber because this step would result from the use of device of Tiano in view of Thornbury and Huffman in further view of Bulman in its normal and expected fashion.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tiano (US-20010029814) in view of Thornbury (US-5277350) and Huffman (US-6648262) as applied to claims 9-11 and 14-15 above, and further in view of applicant's admitted prior art. Tiano in view of Thornbury discloses a method for opening a cable as discussed above in regards to Claim 9. Tiano in view of Thornbury and Huffman is silent about the filament comprising a strength member of an optical-fiber cable. However, the applicant's prior art discloses the use of strengthening members of fiber optic cables on

page 2, paragraph 2, lines 16-18. It would have been obvious to use the method of Tiano in view of Thornbury and Huffman to remove a strength member from an optical-fiber cable because this step would result from the use of device of Tiano in view of Thornbury and Huffman in its normal and expected fashion.

Allowable Subject Matter

Claim 21 is allowed.

The following is an examiner's statement of reasons for allowance: the prior art of record does not teach or render obvious the combination of Claim 21, including a proximal portion having a shaft and a first flange, wherein the shaft is fixedly coupled with the first flange and is engaged with the powered mechanical rotation device, wherein the first flange comprises a threaded hole and the shaft comprises a flat surface to be inserted and secured into the chuck; a distal portion having a second flange comprising a hex cap configured to be turned with a wrench; and a column coupled with the distal portion and fixedly coupled with the hex cap.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

With respect to Applicant's arguments starting on page 7, line 10 to page 8, line 12, applicant argues Thornbury does not disclose a proximal portion comprising a shaft

and a flange fixedly coupled to each other. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

With respect to Applicant's arguments starting on page 8, line 13 to page 9, line 4, applicant argues Tiano and Thornbury do not disclose attaching an end of a filament to a tool having a column fixedly coupled with a distal flange and mechanically and detachably engaged with a proximal flange and rotating a shaft fixedly coupled with the proximal flange. Applicant's arguments with respect to claims 9-11 and 13-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William E. Dondero whose telephone number is 571-272-5590. The examiner can normally be reached on Monday through Friday 7:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on 571-272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

wed


KATHY MATECKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600